

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 1570

INTRODUCER: Commerce Committee and Senator Garcia

SUBJECT: Household Moving Services

DATE: March 26, 2009

REVISED: 3/31/09

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. O'Callaghan	Cooper	CM	Fav/CS
2. Wolfgang	Yeatman	CA	Fav/1 amendment
3.		JU	
4.		FT	
5.		GA	
6.			

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input checked="checked" type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This CS preempts local governments from enacting ordinances regulating movers of household goods or moving brokers. However, ordinances enacted before January 1, 2009, or any amendments to those ordinances, may remain in effect, provided such ordinances levy “reasonable” registration fees that do not exceed the cost of administering the ordinance. Additionally, such ordinances may only require registration and bonding of a mover or moving broker whose principal place of business is located in that jurisdiction. The CS clarifies that a local government’s authority to levy local business taxes is not preempted.

The CS also:

- Excludes movers from liability in certain circumstances;
- Allows movers to refuse to transport certain items under certain circumstances;
- Requires movers to register biennially, rather than annually, with the Department of Agriculture and Consumer Services; and
- Clarifies the definition of storage.

This CS substantially amends the following sections of the Florida Statutes: 507.01, 507.03, 507.04, 507.06, 507.07, and 507.13.

II. Present Situation:

Federal law expressly permits states to regulate the intrastate transportation of household goods.¹ Chapter 507, F.S., which regulates household moving services, “applies to the operations of any mover or moving broker engaged in the intrastate transportation or shipment of household goods originating in this state and terminating in this state.”²

Section 507.03, F.S., requires that any “mover” or “moving broker” wishing to do business in Florida must register annually with the Department of Agriculture and Consumer Services (department). To obtain a registration certificate, the mover or moving broker must file an application, pay a \$300 registration fee, and meet statutory qualifications, including proof of insurance coverage.

According to s. 507.01(9), F.S., “mover” means a person who, for compensation, contracts for or engages in the loading, transportation, shipment, or unloading of household goods as part of a household move. The term does not include a postal, courier, envelope, or package service that does not advertise itself as a mover or moving service.³ “Moving broker” means a person who, for compensation, arranges for another person to load, transport, ship, or unload household goods as part of a household move or who, for compensation, refers a shipper to a mover by telephone, postal or electronic mail, Internet website, or other means.⁴

Section 507.04, F.S., requires that movers and moving brokers maintain liability and motor vehicle insurance. A mover operating more than two vehicles is required to maintain liability insurance coverage in the amount of at least \$10,000 per shipment and the mover’s liability must not be less than 60 cents per pound per article.⁵ Movers operating two or fewer vehicles may maintain a performance bond or certificate of deposit in the amount of \$25,000, in lieu of maintaining liability insurance.⁶ All movers must maintain motor vehicle insurance coverage and the amount of coverage required is determined by the weight of the commercial motor vehicle.⁷

Current law regulates movers and moving brokers by specifying certain contract, delivery, and storage requirements.⁸ Furthermore, current law prohibits the following acts:⁹

- Conduct or engage in the business of moving without first being registered with the department;
- Knowingly make a false statement, representation, or certification of a document required to be submitted or retained;
- Misrepresent or deceptively represent the contract for services or inventory of goods; the timeframe for delivery or storage of goods; the price, size, nature, extent, qualities, or characteristics of services offered; or a shipper’s rights, privileges, or benefits;

¹ See 49 U.S.C. 14501(c)(2)(B).

² See s. 507.02(2), F.S.

³ See s. 507.01(9), F.S.

⁴ See s. 507.1(10), F.S.

⁵ See s. 507.04(1)(a), F.S.

⁶ See s. 507.04(1)(b), F.S.

⁷ See s. 507.04(2)(a)-(c), F.S.

⁸ See ss. 507.05 and 507.06, F.S.

⁹ See s. 507.07, F.S.

- Fail to honor and comply with provisions of the contract for services;
- Withhold delivery of household goods against the wishes of the shipper and after the shipper has paid according to the estimate provided in the service contract; or
- Include a contract provision waiving or limiting a shipper's right or benefit; sell or solicit a waiver or acceptance from a shipper of a provision limiting a shipper's right or benefit; solicit services without clearly disclosing the mover's fixed business address; commit any other act of fraud, misrepresentation, or failure to disclose a material fact; refuse or fail, after notice, to produce any document or record or disclose any information required to be produced or disclosed; or knowingly make a false statement in response to any request or investigation by the department, Department of Legal Affairs, or the state attorney.

Movers that commit any of the above-listed prohibited acts may be subject to administrative, civil, or criminal penalties.¹⁰ Violations of ch. 507, F.S., may also be considered an unfair or deceptive act or practice or unfair method of competition in violation of the Florida Deceptive and Unfair Trade Practices Act, subjecting a violator to a civil penalty of up to \$10,000 per violation.¹¹

Currently, ch. 507, F.S., does not preempt local ordinances or regulations of a county or municipality that regulate transactions relating to movers of household goods or moving brokers.¹² Any mover whose principal place of business is located in a county or municipality that requires local licensing or registration is required to obtain such registration in addition to registering with the state.¹³ In addition, Florida law allows for local taxes, fees, and bonding related to movers and moving brokers.¹⁴

Chapter 205, F.S., authorizes a local government to levy a business tax for the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction, called a local business tax.¹⁵ The local business tax “does not include any fees of licenses paid to any board, commission, or officer for permits, registration, examination, or inspection,” which are “in addition to, but not in lieu of,” the local business tax.¹⁶

According to the Federal Motor Carrier Safety Administration (FMCSA), Florida, California, New York, and New Jersey, are “hot spots” for moving fraud.¹⁷ FMCSA has partnered with state attorneys general, local law enforcement agencies, and industry and consumer groups to oversee and prevent fraud in the moving industry.¹⁸

¹⁰ See ss. 507.09, 507.10, and 507.11, F.S.

¹¹ See s. 507.08, F.S.

¹² See s. 507.13(1)(a), F.S.

¹³ See s. 507.03(4), F.S.

¹⁴ See s. 507.13(1), F.S.

¹⁵ Local business taxes were formerly known as “local occupational license taxes.” See ch. 2006-152, L.O.F.

¹⁶ See s. 205.022(5), F.S.

¹⁷ See FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION, BACKGROUND: THE REGULATION OF HOUSEHOLD GOODS MOVERS available at <http://www.protectyourmove.gov/about/background/background.htm> (last visited March 26, 2009).

¹⁸ *Id.*

III. Effect of Proposed Changes:

Section 1 amends s. 507.01, F.S., to clarify the definition of the term “storage” by narrowing it to mean the “temporary” warehousing of a shipper’s goods while under the care, custody, and control of a mover.

Section 2 amends s. 507.03, F.S., to change the registration requirement from an annual requirement to a biennial requirement. The registration fee will continue to be calculated at the rate of \$300 per year. Also, this section grants the department authority to extend a registration expiration date in order to stagger the registration expiration dates of movers. The staggering of registration expiration dates prevents the department from receiving an influx of registration renewals, allowing for more efficient processing of renewals.

Additionally, this section removes the requirement that movers and brokers obtain a local license or register locally (Section 6 of the CS addresses local registration requirements of movers and moving brokers). This section also deletes the provision that requires movers or brokers to pay the state registration fee as well as the county or municipal license or registration fee. However, movers or brokers are still required to pay the state registration fee under s. 507.03, F.S.

Section 3 amends s. 507.04, F.S., to allow a mover to exclude liability for items packed by the shipper, if the shipper declines in writing to allow the mover to inspect the box or crate containing the items. However, the mover must also declare that it is excluded from such liability.

Section 4 amends s. 507.06, F.S., to allow a mover to refuse to transport or ship any of a shipper’s household goods, as long as the shipper is notified of, and acknowledges, the movers refusal. This section also changes the catch line to include “transportation or shipment” to correspond with the new language proposed in this section of the CS.

Section 5 amends s. 507.07, F.S., to make technical language changes to comport with the language amending s. 507.03, F.S., in section 2 of the CS, which would require that movers register biennially with the department.

Section 6 amends s. 507.13, F.S., to preempt local governments from enacting ordinances regulating movers of household goods or moving brokers. However, ordinances enacted before January 1, 2009, or amendments to those ordinances, may remain in effect, provided such ordinances levy “reasonable” registration fees that do not exceed the cost of administering the ordinance. Additionally, these existing ordinances may require only registration or bonding of a mover or moving broker whose principal place of business is located within that jurisdiction.

Section 7 provides an effective date of July 1, 2009.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

Local governments that currently regulate household movers may also experience a loss in revenue because they will only be authorized to collect reasonable fees necessary to cover administrative costs.

B. Private Sector Impact:

The household moving industry may have reduced business costs, because the law would limit local government fees relating to existing ordinances, or any amendments to such ordinances, to a reasonable amount, which may not exceed the cost of administering any local ordinance or regulation.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by the Commerce Committee on March 17, 2009:

The CS clarifies the limitations on local ordinances or regulations enacted before January 1, 2009, and clarifies that such limitations do not apply to a local government's authority to levy a local business tax, pursuant to ch. 205, F.S.

B. Amendments:

Barcode 492406 by Community Affairs on March 31, 2009:

This amendment rewords a provision dealing with regulating movers whose principal place of business is within the jurisdiction.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
